

# **EXHIBIT D**

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE NORTHERN DISTRICT OF OKLAHOMA

3 UNITED STATES OF AMERICA,

4 Plaintiff,

and

5 OSAGE MINERALS COUNCIL,

6 Intervenor-Plaintiff,

vs.

7 No. 14-CV-704-GFK-JFG

8 OSAGE WIND, LLC; ENEL, KANSAS,  
9 LLC; and ENEL GREEN POWER  
NORTH AMERICA, INC.,

10 Defendants.

11 VIDEO ZOOM DEPOSITION OF CRAIG MAZUROWSKI  
12 TAKEN ON BEHALF OF THE PLAINTIFF  
13 ON JUNE 7, 2021 AT 10:03 AM  
14 REPORTER PRESENT IN OKLAHOMA CITY, OKLAHOMA  
15 APPEARANCES

16 On behalf of the PLAINTIFF:

17 Stuart Ashworth

18 Kathy McClanahan

UNITED STATES ATTORNEY'S OFFICE

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Tulsa, Oklahoma 74119

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22 On behalf of the INTERVENOR-PLAINTIFF:

23 Mary Kathryn Nagle

24 Abi Fain

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26 (Appearances continued on the following page.)

27 VIDEOTAPED BY: Kaleb Pinalto

28 REPORTED BY: Jody Graham, CSR, RPR, RMR, CRR

1	APPEARANCES (Continued)	Page 2	1	VIDEOPHOTOGRAPHER: This is the deposition of	Page 4
2	On behalf of the DEFENDANTS:		2	Craig Mazurowski in the matter of Osage Minerals	
3	Sarah M. Stevenson		3	Council versus Osage Wind. Today is June 7th, 2021,	
4	Lynn Slade		4	and we're on the record at 10:03 a.m. Central Time.	
5	MODRALL, SPERLING, ROEHL, HARRIS & SISK, P.A.		5	Will counsel, please, state their appearances for the	
6	500 Fourth Street NW, Suite 1000		6	record.	
7	Albuquerque, New Mexico 87103		7	MR. ASHWORTH: Stuart Ashworth on behalf of	
8	505.848.1800		8	the US Attorney's office. I also have Kathy	
9	sarah.stevenson@modrall.com		9	McClanahan, an attorney for the US Attorney's office.	
10	On behalf of the WITNESS:		10	We also have Christina Watson and Michelle Hammock who	
11	Roy Rodabaugh		11	are paralegals in our office.	
12	GENERAL COUNSEL, IEA CONSTRUCTORS		12	MS. NAGLE: On behalf of the Osage Minerals	
13	6325 Digital Way, Suite 460		13	Council, Mary Kathryn Nagle of Pipestem & Nagle Law.	
14	Indianapolis, Indiana 48278		14	And with me today is my colleague Abi Fain.	
15	800.688.3775		15	MS. STEVENSON: On behalf of defendants	
16	ALSO PRESENT: Michelle Hammock, Christina Watson		16	Osage Wind, LLC; Enel Kansas, LLC; and Enel Green	
17			17	Power North America, Inc., Sarah Stevenson of the	
18			18	Modrall Sperling law firm. Also attending today is my	
19			19	colleague Lynn Slade, also of Modrall Sperling.	
20			20	MR. RODABAUGH: And you also have Roy	
21			21	Rodabaugh. I'm attorney and counsel for IEA	
22			22	Contractors, LLC, which is formerly known as IEA	
23			23	Renewable Energies, Inc.	
24			24	VIDEOPHOTOGRAPHER: Okay. The court reporter	
25			25	will now swear the witness.	
1	INDEX	Page 3	1	CRAIG MAZUROWSKI,	Page 5
2	Page		2	being first duly sworn, was examined and testified as	
3	CRAIG MAZUROWSKI		3	follows, to wit:	
4	Direct Examination by Mr. Ashworth	5	4	DIRECT EXAMINATION	
5	Cross Examination by Ms. Nagle	5	5	BY MR. ASHWORTH:	
6	Cross Examination by Ms. Stevenson	92	6	<b>Q Sir, my name is Stuart Ashworth, and I</b>	
7	Redirect Examination by Mr. Ashworth	150	7	<b>represent the US. government in this lawsuit. I</b>	
8		153	8	<b>appreciate your time, and I'll try to be as quickly as</b>	
9			9	<b>possible with your deposition. But can you, please,</b>	
10			10	<b>state your full name for the record?</b>	
11	EXHIBITS		11	A Craig Mazurowski.	
12	Exhibit	Description	12	<b>Q What's your middle name?</b>	
13	37	Osage Wind 024749-024751	123	A Benjamin.	
14	44	LinkedIn Page of C. Mazurowski	15	<b>Q Benjamin? Have you gone by any other names</b>	
15	45	Key Personnel Chart	19	<b>other than that?</b>	
16	46	Scope of Work	33	A No.	
17	47	Technical Specifications	43	<b>Q Do you mind if I call you Craig during your</b>	
18	48	Change Order dated 5-28-2012	67	<b>deposition?</b>	
19	49	Change Order dated 5-12-2014	68	A No problem.	
20	50	Purchase Order to Apac dated	80	<b>Q Okay. Just because your last name, I would</b>	
21	9-16-2014		21	<b>hate to butch it up. Mazurowski. Am I kind of saying</b>	
22	51	Purchase Order dated 11-19-2013	83	<b>that correctly?</b>	
23	52	Contract dated 4-11-2013	103	A Yeah. You're dead on.	
24	53	Email dated 7-9-2014 from R. Ritter	130	<b>Q Oh, perfect. How many times have you given</b>	
25	54	to Various Recipients - IEA00227119		<b>a deposition before?</b>	
26	55	Email dated 9-3-2014 between C. Mazurowski and B. Moskaluk	139		
27	56	Email dated 9-17-14 from R. Ritter to C. Hanson - Osage Wind 019903.1	141		
28	57	Email from B. Moskaluk to G. DiMarzio - Osage Wind-018666	145		
29	58	Email dated 11-18-2014 from C. Mazurowski to C. Hanson - Osage Wind 024924	148		
30		Email dated 6-3-2015 from R. Gardner to C. Mazurowski - Osage Wind 388335	151		
31	STIPULATIONS				
32	It is stipulated that the deposition of				
33	CRAIG MAZUROWSKI	may be taken pursuant to Notice and			
34	Federal Rules of Civil Procedure on JUNE 7, 2021,				
35	before Jody Graham, CSR, RPR, RMR, CRR.				

<p>1     <b>Q</b> Who all would have been involved in that  2     <b>collaborative effort?</b></p> <p>3     A    Probably the people you see on this email  4     with the engineer of record and Enel.</p> <p>5     <b>Q</b> Okay. Were you a part of those discussions?</p> <p>6     A    Looks like I was, but I don't remember.</p> <p>7     <b>Q</b> So moving up, it looks like Ron Ritter has a  8     response here to Bryan also on July 9th, 2014. He  9     writes, "I understand that we can't mine from one side  10    of the project and transport to the other; however, in  11    the general vicinity of the foundation within the 192'  12    maximum radius of the cultural boundaries, we intend  13    to balance the site. The process, along with the  14    excavation of the foundation itself, will develop a  15    vast majority of the materials we need for fill and  16    for associated sloping; however, should we need to  17    import fill, the quarry in Burbank from which we are  18    deriving our access road aggregate can supply us with  19    off-site material."</p> <p>20     <b>Was it your understanding that mining on the  21    Osage Wind farm project there was acceptable so long  22    as it was not transported away from the location where  23    it was mined?</b></p> <p>24     MS. STEVENSON: Object to form.</p> <p>25     THE WITNESS: We didn't mine.</p>	<p>Page 134</p> <p>1     A    Well, generally, you know, we have an area  2     that we stay within. And anything outside of that  3     is -- which we can't go outside the design area.</p> <p>4     <b>Q</b> What is your boss Ron Ritter here referring  5     to when he talks about sloping? What's sloping?</p> <p>6     A    You know, to make a proper slope. Because  7     you've got to be within a certain grade --</p> <p>8     <b>Q</b> Uh-huh.</p> <p>9     A    -- for it to be approved, you know what I  10    mean. Like -- like on the side of a hill, you know,  11    you don't want -- driving down the highway and having  12    dirt fall on top of you. So it's kind of the same  13    thing. You slope it back and...</p> <p>14     <b>Q</b> Uh-huh.</p> <p>15     A    So the approved grade, I guess, is probably  16    the best way to define it.</p> <p>17     <b>Q</b> And what materials would typically be used  18    for fill-in sloping?</p> <p>19     A    What would be used for what?</p> <p>20     <b>Q</b> What materials would typically be used for  21    fill-in sloping?</p> <p>22     A    The area, local native material.</p> <p>23     <b>Q</b> Okay. Let's see. So I know you said  24    earlier that you would have been a part of the  25    collaboration that resulted in the original</p>
<p>1     <b>Q</b> (BY MS. NAGLE) So in your opinion  2     nothing -- none of the activities you undertook  3     constitutes mining?</p> <p>4     A    In my opinion, no.</p> <p>5     <b>Q</b> Okay. And so what have you relied on to  6     form that opinion?</p> <p>7     A    Just general understanding of mining. We  8     were excavating and doing civil work, which...</p> <p>9     <b>Q</b> Uh-huh. And was your understanding of what  10    constitutes mining informed by Enel or EGP NA?</p> <p>11     A    Looked like, you know, based on what you're  12    showing me, there were some concerns.</p> <p>13     <b>Q</b> Uh-huh. And would you agree that it looks  14    like here that Enel and EGP NA shared those concerns  15    with you; is that correct?</p> <p>16     MS. STEVENSON: Object to form.</p> <p>17     THE WITNESS: That's how it seems.</p> <p>18     <b>Q</b> (BY MS. NAGLE) Do you have an  19    understanding of what is meant by the reference to  20    the cultural boundaries here in this email from Ron  21    Ritter?</p> <p>22     A    Not specifically. I believe the record  23    drawings define it, if I'm not mistaken.</p> <p>24     <b>Q</b> Okay. So you don't know what cultural  25    boundaries are; is that correct?</p>	<p>Page 135</p> <p>1     <b>construction plan. Do you remember when that original  2     construction plan was finished or complete?</b></p> <p>3     A    You would have to look on the drawings.  4     Should be dated.</p> <p>5     <b>Q</b> Okay. So you don't recall right now?</p> <p>6     A    No.</p> <p>7     <b>Q</b> Okay. So if we keep going up in this email  8     chain, we see Giuseppe responds, and then we've got  9     another response from Ron Ritter. This is also dated  10    July 9th to Giuseppe, and you're copied here on this.</p> <p>11     He -- Ron Ritter -- I'm just reading a few  12    of the relevant lines that -- specifically he says,  13    "It would not be practical for us to perform this work  14    with imported fill at no extra cost if the original  15    scope was for us to be allowed to mine on-site fill."</p> <p>16     <b>What is your understanding of what Ron  17    Ritter meant by this sentence?</b></p> <p>18     MS. STEVENSON: Object to form.</p> <p>19     THE WITNESS: Balancing the site.</p> <p>20     <b>Q</b> (BY MS. NAGLE) So was he informing Enel  21    and EGP NA that in order to balance the site with  22    materials off-site, it would be more expensive than  23    the budget IEA and Enel had initially approved for  24    the project?</p> <p>25     MS. STEVENSON: Object to form.</p>